

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM                    ) NOTICE OF AMENDMENT  
2.59.111 pertaining to retention of bank                )  
records    )

TO: All Concerned Persons

1. On July 27, 2006, the Division of Banking and Financial Institutions published MAR Notice No. 2-2-375 regarding the public hearing on the proposed amendment of the above-stated rule at page 1762 of the 2006 Montana Administrative Register, issue number 14.

2. After consideration of the comments received, the Division of Banking and Financial Institutions has amended ARM 2.59.111 as proposed but with the following changes from the original proposal, matter to be stricken interlined, new matter underlined:

2.59.111 RETENTION OF BANK RECORDS (1) Records of customer accounts must be held in accordance with 32-1-491, MCA.

~~(4)~~ (2) The schedule Bank Records Publication Appendix "A" establishes the minimum period for retention of bank records other than those specified in 32-1-491, MCA. Bank Records Publication Appendix "A" is maintained by the Commissioner of Banking and Financial Institutions, and may be updated at regular intervals not more than once a year by the commissioner. The ~~July 27, 2006~~ December 11, 2006, edition of the Bank Records Publication Appendix "A" is incorporated by reference as part of this rule. A copy of this document can be obtained from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) through (5) remain the same but are renumbered (3) through (6).

(7) "Customer accounts" means savings deposit accounts, checking, or demand deposit accounts, certificates of deposit, safety deposit boxes, and trust accounts.

AUTH: 32-1-218, MCA

IMP: 32-1-218, 32-1-491, ~~32-9-492~~ 32-1-492, MCA

3. The following comments were received and appear with the division's responses:

Comment 1: A comment was received in regard to possible conflict between 32-1-491, MCA, which require that banks keep customer records for eight years, and some of the provisions in the Appendix A.

Response 1: The division agrees that many items contained in the Appendix A would be considered customer records and are subject to the requirements of 32-1-

491, MCA. Any records on customer checking accounts, savings accounts, or any other depository accounts, safety deposit boxes, and trust accounts are subject to 32-1-491, MCA. ARM 2.59.111 and Appendix A have been modified to include only those bank records that are not considered customer account records.

Comment 2: A comment was received that several sections of the Appendix A contradict itself.

Response 2: The division reviewed Appendix A and modified those sections that may have been in conflict or inconsistent with other sections of Appendix A.

Comment 3: A comment was received in regard to the use of out-of-date terminology in Appendix A. In particular, many of the older forms of electronic data such as interface tapes and drums are no longer used.

Response 3: The division has modified the ARM 2.59.111(3) to include information stored electronically. The division is reluctant to remove those old terms because there may be some banks that still use some of those media to store data.

4. The division has amended one of the statutes implemented by ARM 2.59.111. The division made a typographical error in the Notice of Amendment by listing 32-9-492, MCA. The correct statute, 32-1-492, MCA, has now been listed in this Notice of Amendment.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Dal Smilie  
Dal Smilie, Rule Reviewer  
Department of Administration

Certified to the Secretary of State December 11, 2006.